

Title 33: River and Waters

Part 201: Authority and Procedures

Introduction. These regulations are adopted and promulgated by the Board of Directors of the Pearl River Valley Water Supply District pursuant to the authority granted by and in conformity with the provisions of Section 51-9-127, Mississippi Code of 1972, as amended, to secure, maintain, and preserve the sanitary condition of all water in and to flow into the Reservoir, to prevent waste of water or the unauthorized use thereof, and to regulate residence, hunting, fishing, boating, camping, circulation of vehicular traffic on land, the parking of vehicles, and all recreational and business privileges in, along, or around the Reservoir, any body of land or any easement owned by the District.

Part 201 Chapter 1: Organization of the District.

Introduction. In accordance with Section 25-43-2.102 of the Mississippi Administrative Procedures Law, this chapter describes the Pearl River Valley Water Supply District's duties and responsibilities, the organization of the Pearl River Valley Water Supply District's Office, its methods of operation, and how the public can contact the agency to make submissions or requests. The procedure for "Production of Public Records" is set forth in Part 210 of these Regulations.

Rule 1.1 Board of Directors. The Pearl River Valley Water Supply District is an agency of the State of Mississippi created pursuant to the Pearl River Valley Water Supply District Law, Title 51, Chapter 59 of the Mississippi Code of 1972, as amended. The District is composed of five counties: Hinds, Leake, Madison, Rankin and Scott. The District is governed by a fourteen member Board of Directors. The Governor of the State of Mississippi appoints five directors. The Board of Supervisors of each of the five counties appoints one director each. The Mississippi Commission on Environmental Quality, the Mississippi Commission on Wildlife, Fisheries and Parks, the Forestry Commission and the State Board of Health each appoint one director to the District's Board. The Board of Directors employs a General Manager who is in charge of the routine operation of the business of the District.

Pursuant to The Pearl River Valley Water Supply District Reservoir Patrol Officer Law, the District employs patrol officers who may exercise the same powers of arrest and the right to bear firearms that may be exercised by any state, municipal or other police officer in this state with respect to violations of law or regulations committed on property owned by the District.

The District is also authorized by the Metropolitan Area Water Supply Act to construct, maintain and operate a water treatment plant and regional water distribution system.

Source: *Miss. Code Ann.* § 51-9-127 (Rev. 2000)

Rule 1.2 Methods of Operations. All policy and rulemaking authority is vested in the Board of Directors. The Board delegates the routine operations and personnel supervision to the General Manager. The General Manager operates within the following operating divisions:

- (a) Agency Head.

- (b) Engineering.
- (c) Construction & Maintenance.
- (d) Water & Sewer Operations.
- (e) Finance & Personnel.
- (f) Parks & Recreation.
- (g) Parks & Public Facilities Maintenance.
- (h) Campgrounds & Recreational Facilities.
- (i) Reservoir Patrol.

Source: *Miss. Code Ann. § 51-9-127* (Rev. 2000)

Rule 1.3 Responsibilities. The District was established for the accomplishment of the following general purposes as stated in the following Legislative determination and declaration of policy: "It is hereby declared, as a matter of legislative determination, that the waterways and surface waters of the state are among its basic resources, that the overflow and surface waters of the state have not heretofore been conserved to realize their full beneficial use, that the preservation, conservation, storage, and control of such waters are necessary to insure an adequate, sanitary water supply at all times, to promote the balanced economic development of the state, and to aid in flood control, conservation and development of state forests, irrigation of lands needing irrigation, and pollution abatement. It is further determined and declared that the preservation, conservation, storage, and control of the waters of the Pearl River and its tributaries and its overflow waters for domestic, municipal, commercial, industrial, agricultural, and manufacturing purposes, for recreational uses, for flood control, timber development, irrigation, and pollution abatement are, as a matter of public policy, for the general welfare of the entire people of the state. The creation of the Pearl River Valley Water Supply District is determined to be necessary and essential to the accomplishment of the aforesaid purposes."

Source: *Miss. Code Ann. § 51-9-127* (Rev. 2000)

Part 201 Chapter 2: Public Information and Requests.

Rule 2.1 Contacting the Pearl River Valley Water Supply District's Office. The Pearl River Valley Water Supply District's Office may be contacted in person, by U.S. Mail, Courier mail, e-mail, telephone, facsimile and e-mail. The Pearl River Valley Water Supply District also maintains and provides a Website on the Internet at www.therez.ms.

- (a) Location of the Pearl River Valley Water Supply District's Office. The Pearl River Valley Water Supply District maintains its office at 115 Madison Landing Circle, Ridgeland, Mississippi 39157.

(b) The mailing addresses for the Pearl River Valley Water Supply District is Post Office Box 2180, Ridgeland, Mississippi 39158.

(c) Courier Mail should be delivered to the office street address listed above.

(d) The Pearl River Valley Water Supply District's Office may be contacted by telephone at 601-856-6574 and by fax at 601-856-2585.

(e) The primary E-mail address for the Pearl River Valley Water Supply District's Office may be accessed from the Website.

Source: *Miss. Code Ann. § 51-9-127* (Rev. 2000)

Rule 2.2 Requesting Information.

(a) The District strives to serve the public by making information regarding recreational, hunting, fishing and camping opportunities readily available. Printed information may be obtained from the District's office. There may be a charge, depending on the nature of the information. The public is also encouraged to visit the District's Website.

(b) With regard to public records, it is the policy of the District to provide for inspection and copying of its identifiable public records by all people of the State of Mississippi who request such inspection or copying, consistent with the provisions of the Mississippi Public Records Act, § 25-61-1 through § 25-61-17, Mississippi Code of 1972, as amended ("Public Records Act"), and other applicable laws and judicial decisions. The procedure for a public records request is set forth in Part 210 of these Regulations.

Source: *Miss. Code Ann. § 51-9-127* (Rev. 2000)

Part 201 Chapter 3: Rulemaking Oral Proceedings.

Introduction. This rule applies to all oral proceedings held for the purpose of providing the public with an opportunity to make oral presentations on proposed new rules and regulations and amendments to rules and regulations before the District pursuant to the Administrative Procedures Law. This rule does not apply to actions not subject to the Administrative Procedures Law.

Rule 3.1 Procedures For Requesting an Oral Proceeding. Where an oral proceeding has not previously been held or scheduled, the District will conduct an oral proceeding on a proposed rule or amendment if requested by a political subdivision, an agency or ten (10) persons in writing within twenty (20) days after the filing of the notice of the proposed rule.

(a) Each request must be printed or typewritten, or must be in legible handwriting. Each request must be submitted on standard business letter size paper (8-112 inches by 11 inches).

(b) The request may be the form of a letter addressed to the District or as a pleading filed with a court. The request should be mailed to the attention of the General Manager.

(c) Each request must include the full name, telephone number, and mailing address of the requestor(s).

(d) All requests shall be signed by the person filing the request, unless represented by an attorney, in which case the attorney may sign the request.

Source: *Miss. Code Ann. § 51-9-127* (Rev. 2000)

Rule 3.2 Scheduling an Oral Proceeding. The date, time and place of all oral proceedings shall be filed with the Secretary of State's office and mailed to each requestor. The oral proceedings will be scheduled no earlier than twenty (20) days from the filing of this information with the Secretary of State.

Source: *Miss. Code Ann. § 51-9-127* (Rev. 2000)

Rule 3.3 Presiding at Oral Proceeding. The General Manager or designee, who is familiar with the substance of the proposed rule, shall preside at the oral proceeding on a proposed rule.

Source: *Miss. Code Ann. § 51-9-127* (Rev. 2000)

Rule 3.4 Participation at Oral Proceeding. Public participation shall be permitted at oral proceedings in accordance with the following sections.

(a) At an oral proceeding on a proposed rule, persons may make oral statements and make documentary and physical submissions, which may include data, views, comments or arguments concerning the proposed rule.

(b) Persons wishing to make oral presentations at such a proceeding shall notify the District at least ten (10) business days prior to the proceeding and indicate the general subject of their presentations. The presiding officer in his or her discretion may allow individuals to participate who have not previously contacted the District.

(c) At the proceeding, those who participate shall indicate their names and addresses, identify any persons or organizations they may represent, and provide any other information relating to their participation deemed appropriate by the presiding officer. Each group or organization should nominate only one person to make the presentation unless the presiding officer determines that the group or organization cannot reasonably be represented by a single spokesperson.

(d) The presiding officer shall place time limitations on individual oral presentations to assure the orderly and expeditious conduct of the oral proceeding. To encourage joint oral presentations and to avoid repetition, additional time may be provided for persons whose presentations represent the views of other individuals as well as their own views.

(e) Persons making oral presentations are encouraged to avoid restating matters that have already been submitted in writing. Written materials may, however, may be submitted at the oral proceeding.

(f) There shall be no interruption of a participant who has been given the floor by the presiding officer, except that the presiding officer may in his or her discretion interrupt or end the partisan's time where the orderly conduct of the proceeding so requires or when the allotted time has expired.

Source: *Miss. Code Ann. § 51-9-127* (Rev. 2000)

Rule 3.5 *Conducting Oral Proceeding.* The presiding officer shall have authority to conduct the proceeding in his or her discretion for the orderly conduct of the proceeding. The presiding officer shall (i) call proceeding to order; (ii) give a brief synopsis of the proposed rule, a statement of the statutory authority for the proposed rule, and the reasons provided by the District for the proposed rule; (ii) call on those individuals who have contacted the District about speaking on or against the proposed rule; (iii) allow for rebuttal statements following all participant's comments; (iv) adjourn the proceeding.

Source: *Miss. Code Ann. § 51-9-127* (Rev. 2000)

Rule 3.6 *General Discussion.* The presiding officer where time permits and to facilitate the exchange of information, may open the floor to questions or general discussion. The presiding officer may question participants and permit the questioning of participants by other participants about any matter relating to that rulemaking proceeding, including any prior written submissions made by those participants in that proceeding; but no participant shall be required to answer any question.

Source: *Miss. Code Ann. § 51-9-127* (Rev. 2000)

Rule 3.7 *Record of Submissions.* Submissions presented by participants in an oral proceeding shall be submitted to the presiding officer. Such submissions become the property of the District, become part of the rulemaking record, and are subject to the District's public records request procedure.

Source: *Miss. Code Ann. § 51-9-127* (Rev. 2000)

Rule 3.8 *Recording of Oral Proceeding.* The District may record oral proceedings by stenographic or electronic means.

Source: *Miss. Code Ann. § 51-9-127* (Rev. 2000)

Part 201 Chapter 4: Requests for Declaratory Opinions.

Introduction. These sections set forth the District's rules governing the form and content of requests for declaratory opinions, and the District's procedures regarding the requests, as required by Mississippi Code § 25-43-2.103. These sections do not apply to actions of the District not subject to the Administrative Procedures Act.

Rule 4.1 Who May Request a Declaratory Opinion. Any person with a substantial interest in the subject matter may request the District for a declaratory opinion by following the specified procedures.

(a) "Substantial interest in the subject matter" as used in this chapter means: that a party is directly affected by the District's administration of the laws within the District's primary jurisdiction.

(b) "Primary jurisdiction of the District" as used in this chapter means the District has a constitutional or statutory grant of authority in the subject matter at issue.

Source: *Miss. Code Ann. § 51-9-127* (Rev. 2000)

Rule 4.2 Issuance of a Declaratory Opinion. The District will issue declaratory opinions regarding the applicability to specified facts of:

(a) a statute administered or enforceable by the District,

(b) a rule promulgated by the District, or

(c) an order issued by the District.

Source: *Miss. Code Ann. § 51-9-127* (Rev. 2000)

Rule 4.3 Reasons For Refusal of Declaratory Opinion Request. The District may, for good cause, refuse to issue a declaratory opinion. Without limiting the generality of the foregoing, the circumstances in which declaratory opinions will not be issued include, but are not necessarily limited to:

(a) the matter is outside the primary jurisdiction of the District;

(b) lack of clarity concerning the question presented;

(c) there is pending or anticipated litigation, administrative action, or other adjudication which may either answer the question presented by the request or otherwise make an answer unnecessary;

(d) the statute, rule, or order on which a declaratory opinion is sought is clear and not in need of interpretation to answer the question presented by the request;

(e) the facts presented in the request are not sufficient to answer the question presented;

(f) the request fails to contain information required by these rules or the requestor failed to follow the procedure set forth in these rules;

(g) the request seeks to resolve issues which have become moot, or are abstract or hypothetical such that the requestor is not substantially affected by the rule statute or order on which a declaratory opinion is sought;

(h) no controversy exists concerning the issue as the requestor is not faced with existing facts or those certain to arise which raise a question concerning the application of the statute, rule, or order;

(i) the question presented by the request concerns the legal validity of a statute, rule or order;

(j) the request is not based upon facts calculated to aid in the planning of future conduct, but is, instead, based on past conduct in an effort to establish the effect of that conduct;

(k) no clear answer is determinable;

(l) the question presented by the request involves the application of a criminal statute or sets for facts which may constitute a crime;

(m) the answer to the question presented would require the disclosure of information which is privileged or otherwise protected by law from disclosure;

(n) the question is currently the subject of an Attorney General's opinion request; or,

(o) the question has been answered by an Attorney General's opinion.

Source: *Miss. Code Ann. § 51-9-127* (Rev. 2000)

Rule 4.4 Similar Pending Request. A declaratory opinion will not be issued where a similar request is pending before this agency, or any other agency or a proceeding is pending on the same subject matter before any agency, administrative or judicial tribunal, or where such an opinion would constitute the unauthorized practice of law.

Source: *Miss. Code Ann. § 51-9-127* (Rev. 2000)

Rule 4.5 Litigation. A declaratory opinion will not be issued if it may adversely affect the interests of the State, the District, or any of their officers or employees in any litigation which is pending or may reasonably be expected to arise.

Source: *Miss. Code Ann. § 51-9-127* (Rev. 2000)

Rule 4.6 Question of Law. Where a request for a declaratory opinion involves a question of law, the District may refer the matter to the State Attorney General.

Source: *Miss. Code Ann. § 51-9-127* (Rev. 2000)

Rule 4.7 Preemptive Determination. A declaratory opinion will not be issued where the question involves eligibility for a license, permit, certificate or other approval by the District or some other agency, and there is a statutory or regulatory application process by which eligibility for said license, permit, or certificate or other approval may be determined.

Source: *Miss. Code Ann. § 51-9-127* (Rev. 2000)

Part 201 Chapter 5: Written Requests Required.

Rule 5.1 Written Request. Each request must be printed, typewritten or in legible handwriting. Each request must be submitted on standard business letter size paper (8 1/2" by 11"). Requests may be in the form of a letter addressed to the District or in the form of a pleading as might be addressed to a court. Information should be sent to the attention of the General Manager.

Source: *Miss. Code Ann. § 51-9-127* (Rev. 2000)

Rule 5.2 Mailing of Request. All requests must be mailed or delivered to the District. The request and its envelope shall clearly state that it is a request for a declaratory opinion. Oral and telephone requests are unacceptable.

Source: *Miss. Code Ann. § 51-9-127* (Rev. 2000)

Rule 5.3 Certification of Request. Each request must include the full name, telephone number, and mailing address of the requestor. All requests shall be signed by the person filing the request, unless represented by an attorney, in which case the attorney may sign the request. The signing party shall attest that the request complies with the requirements set forth in these rules, including but not limited to a full, complete, and accurate statement of relevant facts and that there are no related proceedings pending before any agency, administrative or judicial tribunal.

Source: *Miss. Code Ann. § 51-9-127* (Rev. 2000)

Rule 5.4 Limit of Request. A request must be limited to a single transaction or occurrence.

Source: *Miss. Code Ann. § 51-9-127* (Rev. 2000)

Rule 5.5 Requirements of Request. Each request must contain the following:

- (a) a clear identification of the statute or rule at issue;
- (b) the question for the declaratory opinion;
- (c) a clear and concise statement of all facts relevant to the question presented;
- (d) the identify of all other known persons involved in or impacted by the factual situation causing the request including their relationship to the facts, name, mailing address and telephone number; and,
- (e) a statement sufficient to show that the person seeking relief has a substantial interest in the subject matter.

Source: *Miss. Code Ann. § 51-9-127* (Rev. 2000)

Rule 5.6 Form and Content of Opinion. The terms of the proposed opinion suggested by the requestor may be submitted with the request but the form and content of the opinion remains within the discretion of the District.

Source: *Miss. Code Ann. § 51-9-127* (Rev. 2000)

Rule 5.7 Argument. A request may contain an argument by the requestor in support of the terms of the proposed opinion suggested by the requestor. The argument may be submitted in the form of a memorandum of authorities, containing a full discussion of the reasons and any legal authorities, in support of such position of the requestor. The District may request that the argument and memorandum of authorities be submitted by any interested party.

Source: *Miss. Code Ann. § 51-9-127* (Rev. 2000)

Rule 5.8 District's Actions. Within forty-five (45) days after the receipt of a complete request for a declaratory opinion which complies with the requirements of these rules, the District shall, in writing:

- (a) issue an opinion declaring the applicability of the specified statute, rule, or order to the specified circumstances;
- (b) agree to issue a declaratory opinion or a written statement by a specified time but no later than ninety (90) days after receipt of the written request; or,
- (c) decline to issue a declaratory opinion, stating the reasons for its action.

Source: *Miss. Code Ann. § 51-9-127* (Rev. 2000)

Rule 5.9 45-Day Period. The forty-five (45) day period shall begin on the first State of Mississippi business day that the request is received by the District.

Source: *Miss. Code Ann. § 51-9-127* (Rev. 2000)

Rule 5.10 60-Day Holding Period. A declaratory opinion shall not become final until the expiration of sixty (60) days after the issuance of the opinion. Prior to the expiration of sixty (60) days, the District may, in its discretion, withdraw or amend the declaratory opinion for any reason which is not arbitrary or capricious. Reasons for withdrawing or amending an opinion include, but are not limited to, a determination that the request failed to meet the requirements of these rules or that the opinion issued contains or was based on a legal or factual error.

Source: *Miss. Code Ann. § 51-9-127* (Rev. 2000)

Rule 5.11 Notice to Third Parties. The District may give notice to any person that a declaratory opinion has been requested and may receive and consider data, facts, arguments and opinions from persons other than the requestor.

Source: *Miss. Code Ann. § 51-9-127* (Rev. 2000)

Rule 5.12 Schedule of Interested Persons. The requestor, or his attorney, shall append to the request for a declaratory opinion a listing of all persons, with addresses, known to the requestor who may have an interest in the declaratory opinion sought to be issued, and shall mail a copy of the request to all such persons. The requestor or his attorney shall certify that a copy of the request was mailed to all such persons together with this statement: "Should you wish to participate in the proceedings of this request, or receive notice of such proceedings or the declaratory opinion issued as a result of this request, you should contact the District within twenty days of the date of this request."

Source: *Miss. Code Ann.* § 51-9-127 (Rev. 2000)

Part 201 Chapter 6: Hearings Optional.

Rule 6.1 Scheduling a Hearing. If the District in its sole discretion deems a hearing necessary or helpful in determining any issue concerning a request for a declaratory opinion, the District may schedule such a hearing. Notice of the hearing shall be given to all interested parties unless waived. Notice mailed by first class mail 7 calendar days prior to the hearing shall be deemed appropriate.

Source: *Miss. Code Ann.* § 51-9-127 (Rev. 2000)

Rule 6.2 Procedure for Conducting a Hearing. Procedure for conducting a hearing, including but not limited to the manner of presentation, the time for presentation, and whether and how evidence may be taken, shall be within the discretion of the District.

Source: *Miss. Code Ann.* § 51-9-127 (Rev. 2000)

Rule 6.3 Participation in a Hearing. The District shall allow the requestor to participate in any hearing. The District may allow any other persons or entities to participate in the hearing in its discretion. Submission of a request for a declaratory opinion or for a hearing does not automatically entitle the requestor to a hearing.

Source: *Miss. Code Ann.* § 51-9-127 (Rev. 2000)

Rule 6.4 Inspection. Declaratory opinions and requests for declaratory opinions shall be available for public inspection and copying in accordance with Part 210 of these Regulations. All declaratory opinions and requests shall be indexed by name and subject. Declaratory opinions and requests which contain information which is confidential or exempt from disclosure under the Mississippi Public Records Act or other laws shall be exempt from this requirement and shall remain confidential.

Source: *Miss. Code Ann.* § 51-9-127 (Rev. 2000)